

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

EDSON FURTADO

:

Plaintiff

:

v.

:

Civil Action No. RWT-07-3068

**NELSON W. RUPP, JR. and
STATE OF MARYLAND**

:

:

Defendants

oOo

MEMORANDUM OPINION

This civil rights action was filed on November 14, 2007, together with a Motion to Proceed In Forma Pauperis. Because Plaintiff appears to be indigent, Plaintiff's Motion to Proceed In Forma Pauperis will be granted. However, for the reasons that follow, Plaintiff's Complaint must be dismissed.

Plaintiff was committed to the Clifton T. Perkins Hospital after he was found incompetent to stand trial in the Circuit Court for Montgomery County. See Furtado v. State of Maryland, Civil Action No. RWT-07-2472 (D. Md. 2007). Plaintiff has brought this suit against the judge in his criminal case and seeks monetary damages for alleged violations of his constitutional rights [Paper No. 1]. Plaintiff's cause of action is prohibited by the doctrine of judicial immunity. See Forrester v. White, 484 U.S. 219, 226–27 (1988) (“If judges were personally liable for erroneous decisions, the resulting avalanche of suits, most of them frivolous but vexatious, would provide powerful incentives for judges to avoid rendering decisions likely to provoke such suits.”)

Similarly, Plaintiff's claim against the State of Maryland is barred by the Eleventh Amendment, which presents a barrier to suits directly against a state or its agencies, regardless of the nature of relief sought. See Pennhurst State Sch. & Hosp. v. Halderman, 465 U.S. 89 (1984).

Also, under the provisions of 28 U.S.C. § 1915(e)(2), a case “shall be dismissed at any time if the court determines that– (A) the allegation of poverty is untrue; or (B) the action or appeal– (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” The instant Complaint fails to state a claim upon which relief may be granted and seeks monetary damages from defendants who are immune from suit. Accordingly, by separate order which follows, Plaintiff’s Complaint shall be dismissed.

Date: 12/3/07

/s/
ROGER W. TITUS
UNITED STATES DISTRICT JUDGE